



BOARD OF APPEALS  
Enid Starr, Co-Chair  
Jesse Geller, Co-Chair  
Robert De Vries

# *Town of Brookline*

## *Massachusetts*

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Brookline, MA 02445-6899  
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Patrick J. Ward, Clerk

### TOWN OF BROOKLINE BOARD OF APPEALS CASE NO. 080039

Petitioners, Harry Margolis and Susan Phillips, applied to the Building Commissioner for permission to construct additions and renovations per plans at 144 Clark Road. The application was denied and an appeal was taken to this Board.

On 18 August 2008, the Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed 2 October 2008, at 7:30 p.m. on the 2<sup>nd</sup> floor of the Main Library as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to its attorney (if any of record), to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published on 11 and 18 September 2008 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

#### NOTICE OF HEARING

Pursuant to M.G.L. C. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **HARRY MARGOLIS and SUSAN PHILLIPS**

Location of Premises: **144 CLARK ROAD BRKL**

Date of Hearing: **10/02/2008**

Time of Hearing: **7:30 p.m.**

Place of Hearing: **Main Library, 2<sup>nd</sup>. floor**

A public hearing will be held for a variance and/or special permit from

- 1) **5.09.2.j; Design Review, Special Permit Required**
- 2) **5.20; Floor Area Ratio, Variance Required.**
- 3) **5.22.3.b.1b; Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Uses, Special Permit Required.**
- 4) **8.02.2; Alteration or Extension, Special Permit Required**

of the Zoning By-Law to construct additions and renovations per plans at **144 CLARK ROAD BRKL.**

Said Premise located in a **S-10** (single family) district.

*Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.*

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.*

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At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman, Jesse Geller and Board Members, Jonathan Book and Christina Wolfe.

The petitioner, Harry Margolis, presented his case before the Board.

Mr. Margolis described the dwelling as a two and a half story single-family house built in 1929. It is located north of Boylston Street near Brookline High School. The architectural style of the house is a simplified colonial, clad in wood clapboard with a slate roof. A detached



single-car garage is located on the south-western side of the lot, at the end of the paved driveway. The lot slopes gradually from the street to half of the rear yard, where the slope becomes much sharper and is densely vegetated. The surrounding neighborhood consists of single-family homes on similar undersized and conforming lots.

Mr. Margolis said that he and Susan Phillips are proposing to build a single-story addition on the rear of their house to add a family/dining room and extend the mudroom on the first floor. He said that they intend as to extend the existing bay window in the second floor nursery to make it more usable as a bedroom or a study. He said that the main thrust of the project is to make the home more comfortable for their current needs. Mr. Margolis said that they are proposing an additional 307 new habitable square feet on the first floor, and an additional 21 square feet on the second floor totaling 328 new square feet of habitable space. In addition, they are proposing to level their backyard and install landscaping to accommodate the addition. He said that they are keeping their expansion under the 120% allowed under the zoning By-Law by special permit and that since the additions are not visible from the street, it should not affect the character of the property. When asked by the Chairman whether they had spoken with their neighbors, Mr. Margolis responded that they had sent letters to their neighbors but received no response.

The Chairman asked whether anyone was present to speak in favor or opposed to the proposal. No one spoke in favor or in opposition to the proposal.

Lara Curtis, Senior Planner, presented the findings of the Planning Department.

#### **Section 5.09.2.j – Design Review**

A special permit is required for any exterior addition for which a special permit is requested pursuant to Section 5.22 (Residential Exceptions to FAR). All of the Community and Environmental Impact and Design Statement conditions have been met and comments on the two most relevant follow:

- (a) Preservation of Landscape: This proposal calls for a 307 s.f. first floor addition and an additional 21sf on the second floor for the bay window extension. The parcel would

be improved as new landscaping will be installed and the leveling of the backyard would enhance usage.

- (b) Relation of Buildings to Environment: The proposed addition relates harmoniously to the use, scale and architecture of the existing building. The architectural style of the addition will match the wood clapboard and the colonial architectural style of the house. The location and shape blends seamlessly with the existing structure.
- (c) Relation of Buildings to the Form of the Streetscape and Neighborhood: The proposed addition are consistent in style with the existing dwelling as well as neighboring dwellings. The addition is not expected to change the overall character of the existing dwelling.
- (d) Open Space: The proposal will allow for the entire rear yard to be used as open space by the residents.
- (e) Circulation: The proposal will retain the existing parking drive and garage and will not affect circulation.

#### **Section 5.20 and 5.22.3.b.1.b – Floor Area Ratio**

<b>Floor Area</b>	<b>Allowed</b>	<b>Allowed by Special Permit</b>	<b>Existing</b>	<b>Proposed</b>	<b>Finding</b>
<b>Floor Area Ratio (% of allowed)</b>	.30 100%	0.36 120%	0.31 103%	.34 113%	Special permit*/ Variance
<b>Floor Area (sf)</b>	2,853	3,424	2,911	3,239	

*\* Under Section 5.22.3.b.1.b the Board of Appeals may grant a special permit in S districts for an increase in floor area, so long as the addition does not exceed 20% of the permitted gross floor area.*

#### **Section 8.02.2 – Alteration or Extension**

A special permit is required for alterations to a dimensionally nonconforming structure.

Ms. Curtis said that the Planning Board had no objection to the proposed rear addition and bay window expansion for a total of 328 square feet. The applicants stayed within the square footage allowed by special permit in this district and designed the addition so that no additional relief, including setback relief, would be required. The proposal blends well with the house, the lot, the neighborhood, and will be an improvement to all three. Therefore, she said, the Planning Board recommended approval of the plans titled “144 Clark Road” by Linda K. Hamlin;



Architect and dated June 19, 2008, and the site plan by Everett M. Brooks Co. dated July 1, 2008, subject to the following conditions:

- 1) **Prior to the issuance of a building permit, the applicant shall submit to the Assistant Director of Regulatory Planning for review and approval the final elevations of the addition.**
- 2) **Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor, including, grading details; 2) final building elevations stamped and signed by a registered architect; and 3) evidence the decision has been recorded at the Registry of Deeds.**

Michael Shepard, Building Commissioner, delivered the comments from the Building Department. He said that in the opinion of the Building Department the renovations and additions were well thought-out and in keeping with the surrounding neighborhood. He said that the Building Department supports the recommendation of the Planning Board as well as their proposed conditions.

The Board, having deliberated on this matter and having considered the foregoing testimony, concluded that the conditions of Section 5.22.3.b.1b (exceptions to maximum floor area ratio), Section 5.09.2.j, (design review) and Section 8.02.2, (alteration or extension of a pre-existing, non-conforming structure) and Section 9.05 of the Zoning By-law necessary for the granting of the requested relief have been satisfied and that it is desirable to grant Special Permits in accordance with said Sections. The Board made the following findings pursuant to Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.

- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

- 1) Prior to the issuance of a building permit, the applicant shall submit to the Assistant Director of Regulatory Planning for review and approval the final elevations of the addition.
- 2) Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance with the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor, including, grading details; 2) final building elevations stamped and signed by a registered architect; and 3) evidence the decision has been recorded at the Registry of Deeds.

Unanimous Decision of  
The Board of Appeals

Filing Date: October 17, 2008

A True Copy

ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals



Jesse Geller, Chairman

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